

willful misconduct, or gross negligence.

[27 FR 8101, Aug. 15, 1962. Redesignated at 57 FR 38750, Aug. 27, 1992]

#### **§ 929.76 Separability.**

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

[27 FR 8101, Aug. 15, 1962. Redesignated at 57 FR 38750, Aug. 27, 1992]

### **Subpart—Rules and Regulations**

#### **§ 929.101 Minimum exemption.**

The requirements of § 929.41 *Assessments* and § 929.54 *Withholding* shall not apply to any handler in a fiscal year during which the handler handles not more than a total of 300 barrels of cranberries.

[53 FR 12374, Apr. 14, 1988]

#### **§ 929.102 Procedure to determine quantity of screened cranberries in unscreened lots.**

The determination pursuant to § 929.54 of the quantity of screened cranberries contained in an unscreened lot shall be made in accordance with the following procedure and on the basis of a sample of representative boxes comprising no less than 2 percent of the cranberries in the lot:

(a) The cranberries in the sample are cleaned to remove chaff, and the boxes of cleaned berries are weighed. The weight of the boxes themselves is then deducted to determine the weight of the cleaned berries. The weight of the cleaned berries is divided by the number of boxes in the sample to obtain the net weight of cleaned cranberries per box. The net weight is multiplied by the number of boxes in the lot to obtain the net weight of the berries in the unscreened lot.

(b) The cleaned berries are run through a separator, having a  $\frac{3}{32}$  inch screen, and with the bounce boards in the lowest position.

(c) The berries from the lower three bounce boards are rerun through the separator.

(d) The berries from the upper four bounce boards are thoroughly mixed and a random cupful (approximately 1 pint) is used to determine, from a count of the sound and unsound berries, the percentage of sound berries in the lot.

(e) Such percentage is adjusted by increasing it by 5 percentage points but not to exceed a total of 100 percent. (This increase makes the sample comparable to lots of screened cranberries, as such lots generally contain an average of 5 percent unsound berries.)

(f) The net weight, as determined in accordance with paragraph (a) of this section, of the berries in the unscreened lot, is multiplied by the adjusted percentage to obtain the quantity of screened cranberries in the unscreened lot.

[28 FR 11611, Oct. 31, 1963]

#### **§ 929.103 Inspection procedure.**

(a) Inspection of withheld cranberries shall be limited to any plant, storage facility, or other location, within the production area where facilities suitable to the inspection service are available for sampling, weighing, and inspection of cranberries.

(b) The handler offering any lot of cranberries for inspection shall furnish the necessary labor and pay the costs of moving, weighing, and otherwise making available the sample the inspector chooses for inspection. The size of the sample shall be determined by the inspector. In the case of inspection of a lot of unscreened cranberries, the sample shall be screened by the handler under the supervision of the inspector and the inspection certificate shall show the quantity of cranberries in such lot which meets the requirements established for withheld cranberries pursuant to § 929.54(c).

[28 FR 11611, Oct. 31, 1963]

#### **§ 929.104 Outlets for restricted cranberries.**

(a) Except as otherwise provided in paragraph (b)(2) of this section, after inspection pursuant to § 929.54(c), cranberries withheld from handling may, in

accordance with § 929.57, be disposed of only through diversion in the following noncompetitive outlets but only if the requirements in paragraph (b) of this section also are complied with:

- (1) Foreign countries, except Canada.
- (2) Charitable institutions.
- (3) Any nonhuman food use.
- (4) Research and development projects dealing with dehydration, radiation, freeze drying, or freezing of cranberries, approved by the U.S. Department of Agriculture, for the development of foreign markets.

(b) The following requirements, as applicable, shall be met by the handler diverting the withheld cranberries in the noncompetitive outlets:

(1) Diversion to foreign countries except Canada: A copy of the on-board bill of lading showing the amount of cranberries loaded for export shall be submitted to the committee.

(2) Diversion to charitable institutions: A statement from the charitable institution showing the quantity of cranberries received and certifying that the cranberries will be consumed by the institution shall be submitted to the committee: *Provided*, That a handler may donate to any one charitable institution, exempt from the inspection and certification requirements prescribed under § 929.54(c), a quantity of cranberries not exceeding 25 barrels during any fiscal period: *Provided further*, That in addition to the statement specified above in this paragraph, each handler shall furnish to the committee a report certifying the quantity and destination of the cranberries so donated by him.

(3) Diversion to a nonhuman food use: Notification shall be given to the committee at least 48 hours prior to the disposition to enable the committee to supervise the disposition. If such disposition immediately follows inspection and is supervised by the inspector, no advance notice is necessary.

(4) Diversion to research and development projects: A report shall be given to the committee showing the project, quantity of cranberries, and date of disposition.

[28 FR 11611, Oct. 31, 1963, as amended at 36 FR 9496, May 26, 1971; 37 FR 5600, Mar. 17, 1972]

#### § 929.105 Reporting.

(a) Each report required to be filed with the committee pursuant to §§ 929.6 and 929.48 shall be mailed to the committee office or delivered to that office. If the report is mailed, it shall be deemed filed when postmarked.

(b) Certified reports shall be filed with the committee, on a form provided by the committee, by each handler not later than January 5, May 5, and August 5 of each fiscal period and by September 5 of the succeeding fiscal period showing:

(1) The total quantity of cranberries the handler acquired and the total quantity of cranberries the handler handled from the beginning of the reporting period indicated through December 31, April 30, July 31, and August 31, respectively, and

(2) The respective quantities of cranberries and cranberry products held by the handler on January 1, May 1, August 1, and August 31 of each fiscal period.

[53 FR 12374, Apr. 14, 1988, as amended at 61 FR 30498, June 17, 1996]

#### § 929.106 Fiscal period.

The fiscal period specified in § 929.6 of this part which began September 1, 1968, and ends on August 31, 1969, is changed to include the period of August 1, through August 31, 1968. Thereafter, the fiscal period will begin on September 1 and end on August 31 of the following year.

[33 FR 16492, Nov. 13, 1968]

#### § 929.107 Basis for determining cranberry acreage.

(a) To be classified as cranberry acreage pursuant to section 929.48, all such acreage must be producing cranberries on a commercial basis or planted, in accordance with order provisions, so as to produce cranberries on a commercial basis. Commercial crop is synonymous with commercial basis and shall mean acreage that has a sufficient density of growing vines to show that such acreage can produce a commercial crop of at least 15 barrels per acre without replanting or renovation of any kind.

(b) So that the committee may properly identify cranberry acreage, the grower shall furnish, upon request, on